

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

George Hollingsworth,)	Civil Action No.: 6:06-CV-02107-HMH
)	
Plaintiff,)	
)	
v.)	
)	Order
PacifiCare Life Assurance Company,)	
)	
Defendant.)	

THIS MATTER COMES BEFORE THE COURT by way of the parties advising that they are in agreement that the matter *sub judice* does not involve any issue under E.R.I.S.A., 29 U.S.C.S. § 1001 et seq. Plaintiff originally filed this case in State Court alleging various state law causes of action arising from Defendant's alleged breach of the terms of an insurance policy. Defendant removed the case to this Court asserting federal question jurisdiction pursuant to E.R.I.S.A and also asserting diversity jurisdiction. Based upon the Defendant's assertion that E.R.I.S.A. applied to Plaintiff's claims, this Court issued a specialized case management order which applies in E.R.I.S.A cases. Subsequent to the issuance of the specialized case management order, counsel have advised the Court that the parties are in agreement that E.R.I.S.A does not apply to the Plaintiff's claims because the underlying insurance policy is part of a "governmental plan" established by the Denver Public Schools. As such, the plan is exempt from E.R.I.S.A. 29 U.S.C.S. § 1003(b). Because the case is not governed by E.R.I.S.A, this Court hereby relieves the parties of all obligations under its prior specialized case management order dated July 26, 2006.

With respect to Defendant's removal of the state law claims based upon diversity jurisdiction, the Plaintiff alleges he is a South Carolina citizen and the Defendant asserts that it is a corporate entity headquartered in a state other than South Carolina. The parties agree that the amount in controversy exceeds \$75,000.00. Therefore, this Court does have jurisdiction to entertain this matter based upon the complete diversity of citizenship and the existence of the requisite amount in controversy. 28 U.S.C. § 1332. Accordingly, the Court will order the parties to comply with its new scheduling order which is being issued contemporaneously with this order and to comply with Fed.R.Civ.P. 26(f) and Local Rules 26(a)(1) and 26.03 within 20 days of the date of this order.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the matter *sub judice* does not appear to be governed by E.R.I.S.A and, therefore, the parties are relieved of all obligations under this court's specialized case management order of July 26, 2006. The parties are instead ordered to comply with the scheduling order which is being issued contemporaneously with this order and to comply with Fed.R.Civ.P. 26(f) and Local Rules 26(a)(1) and 26.03 within 20 days of the date of this order.

AND IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
United States District Judge

August 7, 2006